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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,483	03/30/2004	Walter J. Sperko	02705-04	3251

7590 02/18/2005  
Walter L. Beavers  
326 South Eugene Street  
Greensboro, NC 27401

EXAMINER

JONES, DAVID B

ART UNIT PAPER NUMBER

3725

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary****Application No.**

10/812,483

**Applicant(s)**

SPERKO, WALTER J.

**Examiner**

David B Jones

**Art Unit**

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/30/2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

### DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Batcheller. Batcheller teaches the claimed invention including upper handle 47, lower handle 43, upper jaw 45, lower jaw 42, an adjustable ram 35, a inherent wrench (adjustable means) to adjust the ram 34 (not pictured), and a lock nut 53.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Batcheller alone or further in view of Klein. Batcheller teaches the use of a single ram with an adjustable ram to be old by use of a threaded shaft 35 and locknut 53 and opposed by a lower depression in the lower arm. Hence Batcheller teaches the claimed invention excepting the use of two adjustable rams and opposing lower depressions to make a pair of dimples in the tubular member. To have multiplied the effect of Batcheller to what ever number desired and possible would have been an obvious choice of tool design rendering no new or unobvious result. Moreover, Klein teaches

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the use of double rams or dimplers in a plier like tool 48 and 51 for forming a pair of dimples in a tubular member 12. It would have been obvious to one of ordinary skill in the art at the time of the invention to have multiplied the adjustable rams as desired when taken in view of Klein which teaches such a doubling of rams to be old and well known.

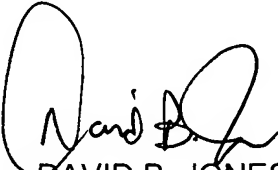
3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David B. JONES whose telephone number is (571) 272-4518.

Any inquiry of a general nature or relating to the status of this application should be directed to telephone number is (571) 272-3700.

In the event that the Applicant(s) wishes to communicate via Fax, the current central Fax number for the patent office is (703) 872-0906

DBJ

  
DAVID B. JONES  
PRIMARY PATENT EXAMINER  
ART UNIT 3725